

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN SENATE JUNE 19, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 647**

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**Introduced by Assembly Member Eggman**  
**(Principal coauthor: Assembly Member Olsen)**  
(Coauthor: Senator Berryhill)

February 24, 2015

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An act to repeal and add Section 1242 of the Water Code, relating to water.

### LEGISLATIVE COUNSEL'S DIGEST

AB 647, as amended, Eggman. Beneficial use: storing of water underground.

Under existing law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Existing law provides for the reversion of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years. Existing law declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made.

This bill would repeal that declaration and instead declare that the diversion of water to underground storage constitutes a beneficial use

of water if the water so stored is thereafter applied to the beneficial purposes for which the appropriation for storage was made, or if the water is so stored consistent with a sustainable groundwater management plan, statutory authority to conduct groundwater recharge, or a judicial decree and is for specified purposes. This bill would require any ~~person, regardless of an existing water right,~~ person seeking to store water underground to first apply to the State Water Resources Control Board for a permit to appropriate water or petition the board for a ~~change~~ *change, as specified*. This bill would require the board to include specified conditions in an approved permit or petition. This bill would provide that the period for the reversion of a water right does not include any period when the water is being used in the aquifer or storage ~~area or is being held in storage for later application to beneficial use,~~ *area*, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1242 of the Water Code is repealed.
- 2 SEC. 2. Section 1242 is added to the Water Code, to read:
- 3 1242. (a) The diversion of water to underground storage
- 4 constitutes a beneficial use of water if either of the following
- 5 conditions are met:
- 6 (1) The water so stored is thereafter applied to the beneficial
- 7 purposes for which the appropriation for storage was made.
- 8 (2) The water is so stored consistent with a sustainable
- 9 groundwater management plan developed pursuant to Part 2.74
- 10 (commencing with Section 10720) of Division 6, statutory authority
- 11 to conduct groundwater recharge, or a judicial decree and is for
- 12 one of the following purposes:
- 13 (A) Protecting water quality from saline water intrusion or other
- 14 contamination.
- 15 (B) Preventing or remediating significant and unreasonable land
- 16 subsidence that substantially interferes with surface land uses.
- 17 (C) Preventing or remediating chronic lowering of groundwater
- 18 levels indicating a significant and unreasonable depletion of supply
- 19 if continued over the planning and implementation horizon of the
- 20 sustainable groundwater management plan.

1 (b) (1) ~~Any person, regardless of an existing water right, person~~  
2 seeking to use water for a purpose described in paragraph (2) of  
3 subdivision (a) shall first apply to the board for a permit to  
4 appropriate water *if the person does not hold a water right or a*  
5 ~~person holding a water right subject to this division, or a pre-1914~~  
6 ~~appropriative water right, shall petition the board for a change to~~  
7 ~~that water right. if the person holds a pre-1914 water right, a~~  
8 *permit, or a license.* The board shall review the application or  
9 petition pursuant to this part.

10 (2) An order by the board approving an application or petition  
11 described in paragraph (1) shall include conditions that prohibit  
12 the diversion of water at times when a legal user of water on the  
13 watercourse from which water is proposed for diversion is releasing  
14 previously stored water or is restricted from diverting water from  
15 that watercourse either due to requirements established by the  
16 board or a regional board to carry out water quality control plans  
17 prepared pursuant to Division 7 (commencing with Section 13000)  
18 or imposed pursuant to the Fish and Game Code or the federal  
19 Endangered Species Act of 1973.

20 (3) In addition to the conditions described in paragraph (2), an  
21 order by the board approving an application or petition to  
22 appropriate water from a stream tributary to the Sacramento-San  
23 Joaquin Delta, as defined in Section 12220, shall include conditions  
24 that prohibit the diversion of water at either of the following times:

25 (A) If the delta is in “balanced water conditions,” as that term  
26 is defined by the Agreement Between the United States of America  
27 and the State of California for the Coordinated Operation of the  
28 Central Valley Project and the State Water Project, dated November  
29 24, 1986.

30 (B) When the Central Valley Project, the State Water Project,  
31 or other permitted storage project is making releases of previously  
32 stored water for instream purposes or delta outflow.

33 (4) Conditions that prohibit the diversion of water imposed  
34 pursuant to subparagraph (B) of paragraph (3) shall not apply when  
35 upstream releases are made *solely* for compliance points upstream  
36 of the diversion.

37 (e)

38 (c) *For any person holding a permit or license in which the*  
39 *board has authorized, on or before January 1, 2016, the*  
40 *underground storage of water, the diversion of water to*

1 *underground storage consistent with that permit or license is*  
2 *presumed to meet the condition described in paragraph (1) of*  
3 *subdivision (a).*

4 (d) The forfeiture periods in Sections 1240 and 1241 do not  
5 include any period ~~when, consistent with this section, when the~~  
6 ~~water is being used in the aquifer or storage area or is being held~~  
7 ~~in storage for later application to beneficial use.~~ *pursuant to*  
8 *paragraph (2) of subdivision (a).*